STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

2110 Ironwood Parkway • Coeur d'Alene, Idaho 83814 • (208) 769-1422
www.deq.idaho.gov

C.L. "Butch" Otter, Governor
John H. Tippets, Director

August 28, 2017

Matthew Keim, Manager Engineering
BNSF Railway Company
Northtown GOB 80-44th Ave NE
Minneapolis, MN 55421

RE: Final §401 Water Quality Certification for Westmond Creek Box Culverts Project (BNSF Bridge #14.3); NWW-2017-00395

Dear Mr. Keim,

Enclosed is the final water quality certification for the above referenced project. The draft certification was advertised for public comment for 21 days from August 4 to August 25, 2017. No comments were received and no substantive changes have been made to the final certification. If you have any questions or concerns, please contact June Bergquist at 208.666.4605 or via email at june.bergquist@deq.idaho.gov .

Sincerely,

Daniel Redline
Regional Administrator
Coeur d'Alene Regional Office

c: Shane Slate , Corps of Engineers – Coeur d'Alene Regulatory Office
Nicole Deinarowicz, DEQ State Office
Pierre Bordenave, Jacobs 101 North Fourth Ave, Suite 203 Sandpoint, ID 83864

Idaho Department of Environmental Quality

Final §401 Water Quality Certification

August 28, 2017

404 Permit Application Number: NWW-2017-00395 BNSF Box Culverts at Westmond Creek (BNSF Bridge #14.3) Project
Applicant/Authorized Agent: Applicant: Matthew Keim, Manager Engineering BNSF Railway Company Northtown GOB 80-44th Ave NE Minneapolis, MN 55421; Authorized Agent: Pierre Bordenave, Principal Scientist, Jacobs Engineering Group Inc. 101 North Fourth Ave, Suite 203 Sandpoint, ID 83864
Project Location: Latitude: 48° 8'28.59"N Longitude: -116° 36'6.85"W From U.S. 95 turn west onto Sportsman Access Road in the community of Westmond to railroad overpass.

Receiving Water Body: Westmond Creek

Pursuant to the provisions of Section 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act), as amended; 33 U.S.C. Section 1341(a)(1); and Idaho Code §§ 39-101 et seq. and 39-3601 et seq., the Idaho Department of Environmental Quality (DEQ) has authority to review activities receiving Section 404 dredge and fill permits and issue water quality certification decisions.

Based upon its review of the joint application for permit, received on July 18, 2017, DEQ certifies that if the permittee complies with the terms and conditions imposed by the permit along with the conditions set forth in this water quality certification, then there is reasonable assurance the activity will comply with the applicable requirements of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, the Idaho Water Quality Standards (WQS) (IDAPA 58.01.02), and other appropriate water quality requirements of state law.

This certification does not constitute authorization of the permitted activities by any other state or federal agency or private person or entity. This certification does not excuse the permit holder from the obligation to obtain any other necessary approvals, authorizations, or permits.

Project Description

The Sportsman Access Road to Cocolalla Lake has repeatedly flooded where it crosses Westmond Creek. To fix the problem and protect the railroad bridge, BNSF Railway Company proposes to replace a failing 72 inch corrugated culvert and adjacent 18 inch plugged culvert with a 10 foot wide by 8 foot long concrete box culvert. This culvert will be set below the bottom of the stream channel and filled with gravel for fish habitat to encourage successful fish passage. A second similarly designed 80 foot long by 10 foot wide box culvert will be constructed to create a second crossing of Westmond Creek for the new re-routing of the Sportsman Access Road. The reroute north to Cocolalla Loop Road will be within the BNSF right of way.

Work will be done during low flow of Westmond Creek and best management practices such as sediment (silt) fence, sediment filter rolls (wattles), seeding, and mulching of disturbed soils will be used. If the stream is flowing during construction it will be carried through the construction site in a flexible pipe to protect water quality. Spill kits will be on site and equipment will operate with biodegradable fuels.

Antidegradation Review

The WQS contain an antidegradation policy providing three levels of protection to water bodies in Idaho (IDAPA 58.01.02.051).

- Tier I Protection. The first level of protection applies to all water bodies subject to Clean Water Act jurisdiction and ensures that existing uses of a water body and the level of water quality necessary to protect those existing uses will be maintained and protected (IDAPA 58.01.02.051.01; 58.01.02.052.01). Additionally, a Tier I review is performed for all new or reissued permits or licenses (IDAPA 58.01.02.052.07).
- Tier II Protection. The second level of protection applies to those water bodies considered high quality and ensures that no lowering of water quality will be allowed unless deemed necessary to accommodate important economic or social development (IDAPA 58.01.02.051.02; 58.01.02.052.08).
- Tier III Protection. The third level of protection applies to water bodies that have been designated outstanding resource waters and requires that activities not cause a lowering of water quality (IDAPA 58.01.02.051.03; 58.01.02.052.09).

DEQ is employing a water body by water body approach to implementing Idaho's antidegradation policy. This approach means that any water body fully supporting its beneficial uses will be considered high quality (IDAPA 58.01.02.052.05.a). Any water body not fully supporting its beneficial uses will be provided Tier I protection for that use, unless specific circumstances warranting Tier II protection are met (IDAPA 58.01.02.052.05.c). The most recent federally approved Integrated Report and supporting data are used to determine support status and the tier of protection (IDAPA 58.01.02.052.05).

Pollutants of Concern

The primary pollutant of concern for this project is sediment. As part of the Section 401 water quality certification, DEQ is requiring the applicant comply with various conditions to protect water quality and to meet Idaho WQS, including the water quality criteria applicable to sediment.

Temperature is not a pollutant of concern due to the limited area of construction and ultimate placement of the stream in an enclosed concrete culvert that should protect the stream from excess heating.

Receiving Water Body Level of Protection

This project is located on Westmond Creek within the Pend Oreille Lake Subbasin assessment unit (AU) ID17010214PN013_02a (Westmond Creek and Tributaries). This AU has the

following designated beneficial uses: cold water aquatic life, primary contact recreation and domestic water supply. In addition to these uses, all waters of the state are protected for agricultural and industrial water supply, wildlife habitat, and aesthetics (IDAPA 58.01.02.100).

This AU is included in Category 3 (Unassessed Waters) of the 2014 Integrated Report. Therefore, DEQ must provide an appropriate level of protection on a case-by-case basis using information available at this time (IDAPA 58.01.02.052.05.b). Because there is no data available DEQ will assume that this waterbody is high quality and will provide Tier II protection in addition to Tier I for this waterbody (IDAPA 58.01.02.051.02; 58.01.02.051.01). BNSF Railway Company has indicated on their application that they are willing to assume that the affected waterbody is high quality.

Protection and Maintenance of Existing Uses (Tier I Protection)

As noted above, a Tier I review is performed for all new or reissued permits or licenses, applies to all waters subject to the jurisdiction of the Clean Water Act, and requires demonstration that existing uses and the level of water quality necessary to protect existing uses shall be maintained and protected. The numeric and narrative criteria in the WQS are set at levels that ensure protection of existing and designated beneficial uses.

During the construction phase, the applicant will implement, install, maintain, monitor, and adaptively manage best management practices (BMPs) directed toward reducing erosion and minimizing turbidity levels in receiving water bodies downstream of the project. In addition, permanent erosion and sediment controls will be implemented, which will minimize or prevent future sediment contributions from the project area. Construction work will be done during low flow and the stream will be routed around the construction site in a pipe to protect water quality. The area will be reseeded and mulched for long term erosion control. As long as the project is conducted in accordance with the provisions of the project plans, Section 404 permit, and conditions of this certification, then there is reasonable assurance the project will comply with the state's numeric and narrative criteria. These criteria are set at levels that protect and maintain designated and existing beneficial uses.

There is no available information indicating the presence of any existing beneficial uses aside from those that are already designated and discussed above; therefore, the permit ensures that the level of water quality necessary to protect both existing and designated uses is maintained and protected in compliance with the Tier I provisions of Idaho's WQS (IDAPA 58.01.02.051.01 and 58.01.02.052.07).

High-Quality Waters (Tier II Protection)

Westmond Creek is considered high quality for cold water aquatic life and primary contact recreation. As such, the water quality relevant to these uses must be maintained and protected, unless a lowering of water quality is deemed necessary to accommodate important social or economic development.

To determine whether degradation will occur, DEQ must evaluate how the permit issuance will affect water quality for each pollutant that is relevant to cold water aquatic life and contact recreation uses of Westmond Creek (IDAPA 58.01.02.052.06). The only pollutant of concern for

this project is sediment. Sediment is not relevant to recreational uses. Therefore, this project will not result in a lowering of water quality with respect to recreational beneficial use support. Sediment is relevant to the cold water aquatic life beneficial use and, as such, the permittee must minimize the transport of sediment through the implementation of best management practices (BMPs). The stream will be protected from sedimentation by the use of silt fencing, wattles, bypass pipe to carry stream flow around the construction site, grass seed and mulch for long term stabilization and work during the low flow timeframe. Also, conditions in the certification require monitoring and maintenance of best management practices to ensure optimal effectiveness. Overall, the project should reduce sedimentation of the stream by increasing the size of the culvert under the bridge and rerouting the road away from the area that has repeatedly flooded in the past. As such, the project complies with IDAPA 58.01.02.051.02 and IDAPA 58.01.02.052.06.

In order to maintain the ambient water quality conditions, permanent erosion and sediment controls must be implemented which will minimize or prevent future sediment contributions from the project area. The provisions in the 404 permit, coupled with the conditions of this certification, ensure that degradation to the Pend Oreille Lake AU or Westmond Creek will not occur. Therefore, DEQ concludes that this project complies with the Tier II provisions of Idaho's WQS (IDAPA 58.01.02.051.02; 58.01.02.052.06 and 58.01.02.052.08).

Conditions Necessary to Ensure Compliance with Water Quality Standards or Other Appropriate Water Quality Requirements of State Law

General Conditions

1. This certification is conditioned upon the requirement that any modification (e.g., change in BMPs, work windows, etc.) of the permitted activity shall first be provided to DEQ for review to determine compliance with Idaho WQS and to provide additional certification pursuant to Section 401. Such modifications may not be implemented until DEQ has determined whether additional certification is necessary.
2. DEQ reserves the right to modify, amend, or revoke this certification if DEQ determines that, due to changes in relevant circumstances—including without limitation, changes in project activities, the characteristics of the receiving water bodies, or state WQS—there is no longer reasonable assurance of compliance with WQS or other appropriate requirements of state law.
3. If ownership of the project changes, the certification holder shall notify DEQ, in writing, upon transferring this ownership or responsibility for compliance with these conditions to another person or party. The new owner/operator shall request, in writing, the transfer of this water quality certification to his/her name.
4. A copy of this certification must be kept on the job site and readily available for review by any contractor working on the project and any federal, state, or local government personnel.
5. Project areas shall be clearly identified in the field prior to initiating land-disturbing activities to ensure avoidance of impacts to waters of the state beyond project footprints.

6. The applicant shall provide access to the project site and all mitigation sites upon request by DEQ personnel for site inspections, monitoring, and/or to ensure that conditions of this certification are being met.
7. The applicant is responsible for all work done by contractors and must ensure the contractors are informed of and follow all the conditions described in this certification and the Section 404 permit.
8. **If this project disturbs more than 1 acre and there is potential for discharge of stormwater to waters of the state, coverage under the EPA Stormwater Construction General Permit *must* be obtained. More information can be found at** http://yosemite.epa.gov/R10/WATER.NSF/NPDES+Permits/Region+10+CGP+resources.

Fill Material

9. The fill material to be placed shall be clean material only.
10. Fill material shall not be placed in a location or in a manner that impairs surface or subsurface water flow into or out of any wetland area.
11. Placement of fill material in existing vegetated wetlands shall be minimized to the greatest extent possible.
12. All temporary fills shall be removed in their entirety on or before construction completion.
13. Excavated or staged fill material must be placed so it is isolated from the water edge or wetlands and not placed where it could re-enter waters of the state.

Erosion and Sediment Control

14. BMPs for sediment and erosion control suitable to prevent exceedances of state WQS shall be selected and installed before starting construction at the site. One resource that may be used in evaluating appropriate BMPs is DEQ's *Catalog of Stormwater Best Management Practices for Idaho Cities and Counties*, available online at http://www.deq.idaho.gov/media/494058-entire.pdf. Other resources may also be used for selecting appropriate BMPs.
15. Erosion and sediment control measures shall be installed to prevent excess sediment from entering waters of the state.
16. Erosion and sediment control measures shall be installed at the earliest practicable time consistent with good construction practices and shall be maintained as necessary throughout project operation.
17. At a minimum, BMPs must be inspected and maintained daily during project implementation.
18. All construction debris shall be properly disposed of so it cannot enter waters of the state or cause water quality degradation.
19. Disturbed areas suitable for vegetation shall be seeded or revegetated to prevent subsequent soil erosion.
20. Sediment from disturbed areas or able to be tracked by vehicles onto pavement must not be allowed to leave the site in amounts that would reasonably be expected to enter waters

of the state. Placement of clean aggregate at all construction entrances or exits and other BMPs such as truck or wheel washes, if needed, must be used when earth-moving equipment will be leaving the site and traveling on paved surfaces.

Turbidity

21. Sediment resulting from this activity must be mitigated to prevent violations of the turbidity standard as stipulated under the Idaho WQS (IDAPA 58.01.02). *Any violation of this standard must be reported to the DEQ regional office immediately.*
22. All practical BMPs on disturbed banks and within the waters of the state must be implemented to minimize turbidity. Visual observation is acceptable to determine whether BMPs are functioning properly. If a plume is observed, the project may be causing an exceedance of WQS and the permittee must inspect the condition of the projects BMPs. If the BMPs appear to be functioning to their fullest capability, then the permittee must modify the activity or implement additional BMPs (this may also include modifying existing BMPs).

In-water Work

23. Stranded fish found in dewatered segments should be moved to a location (preferably downstream) with water.
24. To minimize sediment transport, stream channel or stream bank stabilization must be completed prior to returning water to a dewatered segment.

Pollutants/Toxics

25. The use of chemicals such as soil stabilizers, dust palliatives, sterilants, growth inhibitors, fertilizers, and deicing salts during construction and operation should be limited to the best estimate of optimum application rates. All reasonable measures shall be taken to avoid excess application and introduction of chemicals into waters of the state.

Vegetation Protection and Restoration

26. Disturbance of existing wetlands and native vegetation shall be kept to a minimum.
27. To the maximum extent practical, staging areas and access points should be placed in open, upland areas.
28. Fencing and other barriers should be used to mark the construction areas.
29. If authorized work results in unavoidable vegetative disturbance, riparian and wetland vegetation shall be successfully reestablished to function for water quality benefit at pre-project levels or improved at the completion of authorized work.

Management of Hazardous or Deleterious Materials

30. Petroleum products and hazardous, toxic, and/or deleterious materials shall not be stored, disposed of, or accumulated adjacent to or in the immediate vicinity of waters of the state. Adequate measures and controls must be in place to ensure that those materials will

not enter waters of the state as a result of high water, precipitation runoff, wind, storage facility failure, accidents in operation, or unauthorized third-party activities.

31. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the channel if this fluid is available.
32. Daily inspections of all fluid systems on equipment to be used in or near waters of the state shall be done to ensure no leaks or potential leaks exist prior to equipment use.
33. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
34. Equipment and machinery shall be steam cleaned of oils and grease in an upland location or staging area with appropriate wastewater controls and treatment prior to entering a water of the state. Any wastewater or wash water must not be allowed to enter a water of the state. **Cleaning shall be sufficient to remove any aquatic invasive species.**
35. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).
36. In accordance with IDAPA 58.01.02.850, in the event of an unauthorized release of hazardous material to state waters or to land such that there is a likelihood that it will enter state waters, the responsible persons in charge must
    a. Make every reasonable effort to abate and stop a continuing spill.
    b. Make every reasonable effort to contain spilled material in such a manner that it will not reach surface or ground waters of the state.
    c. Call 911 if immediate assistance is required to control, contain, or clean up the spill. If no assistance is needed in cleaning up the spill, contact the appropriate DEQ regional office during normal working hours or Idaho State Communications Center after normal working hours (1-800-632-8000). If the spilled volume is above federal reportable quantities, contact the National Response Center (1-800-424-8802).
        - Coeur d'Alene Regional Office: 208-769-1422 / 877-370-0017
    d. Collect, remove, and dispose of the spilled material in a manner approved by DEQ.

Culverts

37. **To prevent road surface and culvert bedding material from entering a stream, culvert crossings must include best management practices to retain road base and culvert bedding material. Examples of best management practices include, but are not limited to, parapets, wing walls, inlet and outlet rock armoring, compaction, suitable bedding material, anti-seep barriers such as bentonite clay, or other acceptable roadway retention systems.**
38. The culverts shall not constrict the stream channel and shall not be angled such that the outflow is directed toward the stream bank. The culvert's flow line shall match the existing stream invert at its entrance and exit. Adequate grade control shall be installed to prevent channel down cutting or excessive deposition from occurring.
39. The culverts shall be installed such that they do not impede fish passage.

Right to Appeal Final Certification

The final Section 401 Water Quality Certification may be appealed by submitting a petition to initiate a contested case, pursuant to Idaho Code § 39-107(5) and the "Rules of Administrative Procedure before the Board of Environmental Quality" (IDAPA 58.01.23), within 35 days of the date of the final certification.

Questions or comments regarding the actions taken in this certification should be directed to June Bergquist, Coeur d'Alene Regional Office at 208-666-4605 or via email at june.bergquist@deq.idaho.gov .

Daniel Redline
Regional Administrator
Coeur d'Alene Regional Office